

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 385

91ST GENERAL ASSEMBLY

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INTRODUCED BY SENATOR MATHEWSON.

Read 1st time January 30, 2001, and 1,000 copies ordered printed.

Read 2nd time February 5, 2001, and referred to the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections.

Reported from the Committee March 8, 2001, with recommendation that the bill do pass.

Taken up for Perfection April 3, 2001. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 326.011, 326.012, 326.021, 326.022, 326.040, 326.050, 326.055, 326.060, 326.100, 326.110, 326.120, 326.121, 326.125, 326.130, 326.131, 326.133, 326.134, 326.151, 326.160, 326.170, 326.180, 326.190, 326.200, 326.210 and 326.230, RSMo 2000, relating to accountants, and to enact in lieu thereof twenty-seven new sections relating to the same subject, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 326.011, 326.012, 326.021, 326.022, 326.040, 326.050, 326.055, 326.060, 326.100, 326.110, 326.120, 326.121, 326.125, 326.130, 326.131, 326.133, 326.134, 326.151, 326.160, 326.170, 326.180, 326.190, 326.200, 326.210 and 326.230, RSMo 2000, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 326.250, 326.253, 326.256, 326.259, 326.262, 326.265, 326.268, 326.271, 326.274, 326.277, 326.280, 326.283, 326.286, 326.289, 326.292, 326.295, 326.298, 326.304, 326.307, 326.310, 326.313, 326.316, 326.319, 326.322, 326.325, 326.328 and 326.331, to read as follows:

**326.250. The provisions of sections 326.250 to 326.331 shall be known and may be cited as the "Missouri Accountancy Act".**

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**326.253. It is the policy of this state, and the purpose of this chapter, to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial and governmental enterprises. The protection of the public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications not be permitted to represent themselves as having such special competence or to offer such assurance; that the conduct of persons licensed as having special competence in accountancy be regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of certified public accountants be established; and that the use of titles that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles be prohibited.**

**326.256. 1. When used in this chapter, the following terms have the meanings indicated:**

- (1) "AICPA", the American Institute of Certified Public Accountants;**
- (2) "Attest", providing the following financial statement services:**
  - (a) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);**
  - (b) Any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);**
- (3) "Board", the Missouri state board of accountancy established pursuant to section 326.259 or its predecessor pursuant to prior law;**
- (4) "Certificate", a certificate issued pursuant to section 326.060 prior to August 28, 2001;**
- (5) "Certified public accountant" or "CPA", the holder of a certificate or license defined in this section;**
- (6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a corporation, a partnership or any other form of organization issued a permit pursuant to section 326.289;**
- (7) "Client", a person or entity that agrees with a licensee or licensee's employer to receive any professional service;**
- (8) "Compilation", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presented in the form of financial statements information that is the representation of management (owners) without undertaking to express any assurance on the**

statements;

(9) "License", a license issued pursuant to section 326.280, or a provisional license pursuant to section 326.283; or, in each case, an individual license or permit issued pursuant to corresponding provisions of prior law;

(10) "Licensee", the holder of a license as defined in this section;

(11) "Manager", a manager of a limited liability company;

(12) "Member", a member of a limited liability company;

(13) "NASBA", the National Association of State Boards of Accountancy;

(14) "Peer review", a study, appraisal or review of one or more aspects of the professional work of a licensee or certified public accountant firm that performs attest, review or compilation services, by licensees who are not affiliated either personally or through their certified public accountant firm with the licensee or certified public accountant firm being reviewed pursuant to the "Standards for Performing and Reporting on Peer Reviews" promulgated by the AICPA or such other standard adopted by regulation by the board which meets or exceeds the aforementioned standards;

(15) "Permit", a permit to practice as a certified public accountant firm issued pursuant to section 326.289 or corresponding provisions of prior law or pursuant to corresponding provisions of the laws of other states;

(16) "Professional", arising out of or related to the specialized knowledge or skills associated with certified public accountants;

(17) "Public accountancy":

(a) Performing or offering to perform for an enterprise, client or potential client one or more services involving the use of accounting or auditing skills or one or more management advisory or consulting services or the preparation of tax returns or the furnishing of advice on tax matters by a person, firm, limited liability company or professional corporation using the title "C.P.A." or "P.A." in signs, advertising, directory listing, business cards, letterheads or other public representations;

(b) Signing or affixing a name with any wording indicating the person or entity has expert knowledge in accounting or auditing, to any opinion or certificate attesting to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract including, but not limited to, statutes, ordinances, rules, grants, loans and appropriations; or

(c) Offering to the public or to prospective clients to perform or actually performing on behalf of clients professional services that involve or require an audit or examination of financial records leading to the expression of a written attestation or opinion concerning these records;

**(18) "Report", when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language or both; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence or both;**

**(19) "Review", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles or if applicable, with another comprehensive basis of accounting;**

**(20) "State", any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;**

**(21) "Substantial equivalency", a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements contained in this chapter or that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in this chapter;**

**(22) "Transmittal", any transmission of information in any form, including but not limited to any and all documents, records, minutes, computer files, disks or information.**

**2. The statements on standards specified in this section shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by the AICPA or other recognized national accountancy organization as prescribed by board rule.**

**326.259. 1. The "Missouri State Board of Accountancy" shall consist of seven members, one of whom shall be a voting public member, and shall have the functions,**

**powers and duties prescribed in this chapter.**

**2. Each member of the board, except the public member, shall be a licensee, issued pursuant to the laws of this state, and shall at the time of his or her appointment be a citizen of the United States; a resident of this state for at least one year; and have practiced continuously as a licensee for a period of at least five years immediately preceding his or her appointment. At the time of his or her appointment, the public member shall be a citizen of the United States; a resident of this state for a period of one year; a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the immediate family member of such a person; and a person who does not have and never has had a material, financial interest in either providing professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter.**

**3. Members of the Missouri state board of accountancy appointed pursuant to section 326.160 shall serve the remainder of their terms. Thereafter, the members of the board, including public members, shall be chosen by the governor with the advice and consent of the senate from lists submitted by the director of the division of professional registration. The chair of the largest membership state organization of certified public accountants which is dedicated to maintaining the high professional and ethical standards of accountants as well as protection of the public may submit a list of five licensees to the director of the division of professional registration for consideration as a board member, other than the public member. In order to be considered by the director of the division of professional registration, the list must be submitted at least ninety days prior to the expiration of the term of the board member, or as soon as feasible after a vacancy on the board occurs. The duties of the public member shall not include the determination of the technical requirements for licensure, whether any person meets the technical requirements, or the technical competence or technical judgment of a certified public accountant or applicant for licensure.**

**4. The term of office of each board member appointed shall be five years. Vacancies shall be filled by the governor for the remainder of the unexpired term. No person shall serve more than two consecutive terms or eleven years, whichever is less, however, a member may hold office until his or her successor is appointed and qualified. Any member who has served two complete consecutive terms shall be ineligible to be reappointed until one year has lapsed. No member whose term has been terminated for any reason, other than the term's expiration, shall be eligible for reappointment until the lapse of one year. An appointment to fill an unexpired term shall not be considered a complete term.**

5. The governor may remove any member of the board for misconduct, incompetency or neglect of official duties; after giving the member written notice of the charges and an opportunity to be heard.

**326.262. 1.** The Missouri state board of accountancy shall have power by rule to: adopt and use a seal; make and amend all rules deemed necessary for the proper administration of this chapter; conduct examinations; administer oaths and hear testimony regarding complaints, investigations and disciplinary actions or in pursuing settlement as provided by section 621.110, RSMo, or preparatory to the filing of a complaint pursuant to section 621.045, RSMo; require, by summons or subpoena, the attendance and testimony of witnesses, and the production of books, papers and documents with respect to testimony regarding complaints, investigations and disciplinary actions or in pursuing settlement; and do and perform all other acts and things committed to its charge and administration, or incidental thereto.

2. The board shall maintain its office in Jefferson City, Missouri.

**326.265. 1.** The board shall elect one of its members as president, another as vice president, another as secretary, and another as treasurer annually and shall make an annual report to the governor and the general assembly. The board shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to the board all affidavits and other verified documents; and shall keep accurate records and minutes of its proceedings. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal, shall constitute and have the full force and effect of the original.

2. The board may employ legal counsel and board personnel as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, and incur such travel and other expense, as, in its judgment, shall be necessary for the effective administration of this law.

3. The board may also appoint a continuing education committee of not less than five members consisting of certified public accountants of this state. This committee shall:

(1) Evaluate continuing education programs to determine if they meet continuing education regulations adopted by the board;

(2) Consider applications for exceptions to continuing education regulations adopted pursuant to the provisions of section 326.271; and

(3) Consider other matters regarding continuing education as may be assigned by the board.

**326.268. 1.** The board may by rule prescribe the dates and places for holding regular meetings and regulate the call, notice and holding of special meetings. Four

**members of the board shall constitute a quorum at any regular meeting or special meeting.**

**2. The board shall determine dates and times of examination of applicants by rule. Examination of applicants shall be held at least twice annually. The board may determine the method for publicizing the times and places of the examination by rule. The board may require any or all applicants to appear in person before the board to answer questions regarding their qualifications; and may, in the board's discretion, require evidence in support of the statements of the applicant.**

**3. The required examination shall test the applicant's knowledge of the subjects of accounting and auditing, and such other related subjects as the board may specify by rule, including but not limited to business law and taxation. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading and passing grades; provided, however, that the board shall to the extent possible ensure the examination, grading of the examination and the passing grades are uniform with those applicable in other states. The board may make use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants and may contract with third parties to perform administrative services with respect to the examination as the board deems appropriate.**

**4. The board by rule may determine the examination fee.**

**5. Each member of the board shall receive as compensation an amount set by the board not to exceed seventy dollars for each day devoted to the affairs of the board, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. All claims for compensation and expenses shall be presented and allowed in open meetings of the board. No compensation or expenses of members of the board, its officers or employees shall be charged against the general funds of the state, but shall be paid out of the state board of accountancy fund.**

**326.271. 1. The board shall promulgate rules of procedure for governing the conduct of matters before the board.**

**2. The board shall promulgate rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy.**

**3. In promulgating rules and regulations regarding the requirements of continuing education the board:**

**(1) May use and rely upon guidelines and pronouncements of recognized educational and professional associations;**

**(2) May prescribe for content, duration and organization of courses;**

**(3) Shall consider the accessibility to applicants of continuing education the board requires, and any impediments to the interstate practice of public accountancy which may result from differences in requirements in states;**

**(4) May in its discretion relax or suspend continuing education requirements for instances of individual hardship;**

**(5) Shall not require continuing education in excess of one hundred twenty hours of continuing education or its equivalent in any three-year period, not more than one-third of which shall be required in any one year, and such requirements of continuing education must be capable of being fulfilled in programs or courses reasonably available to licensees within the state.**

**4. The board by rule may require licensees to submit any continuing education reporting as the board deems necessary.**

**5. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.**

**326.274. The board, upon receipt of a complaint or other information suggesting violations of this chapter or the rules of the board, may conduct investigations to determine whether there is probable cause to institute proceedings pursuant to sections 326.295 to 326.316 against any person or firm for the violation, but an investigation pursuant to this section shall not be a prerequisite to initiate proceedings where a determination of probable cause can be made without investigation.**

**326.277. In order for an applicant to be eligible to apply for the examination, the applicant must fulfill the education requirements of subdivision (4) of subsection 1 of section 326.280.**

**326.280. 1. A license shall be granted by the board to any person who meets the requirements of this chapter and who:**

**(1) Is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state;**

**(2) Has attained the age of twenty-one years;**

**(3) Is of good moral character;**

**(4) Either:**

**(a) Applied for the initial examination prior to June 30, 1999, and holds a baccalaureate degree conferred by an accredited college or university recognized by the board, with a concentration in accounting, or to the substantial equivalent of a concentration in accounting as determined by the board; or**

**(b) Applied for the initial examination on or after June 30, 1999, and has at least one hundred fifty semester hours of college education including a baccalaureate or**

higher degree conferred by an accredited college or university recognized by the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate;

(5) Has passed an examination in accounting, auditing, and such other related subjects as the board shall determine is appropriate; and

(6) An applicant for a license pursuant to this section shall show that the applicant has had one year of experience. Experience shall be verified by a licensee and shall include any type of service or advice involving the use of accounting, attest, review, compilation, management advisory, financial advisory, tax or consulting skills. The board shall promulgate rules and regulations concerning the verifying licensee's review of the applicant's experience.

2. The board by rule shall prescribe the terms and conditions for reexaminations and fees to be paid for reexaminations.

3. A person who, on August 28, 2001, holds an individual permit issued pursuant to the laws of this state shall not be required to obtain additional licenses pursuant to sections 326.280 to 326.286, and the licenses issued shall be considered licenses issued pursuant to sections 326.280 to 326.286. However, such persons shall be subject to the provisions of section 326.286 for renewal of licenses.

4. Upon application, the board may issue a temporary license to an applicant pursuant to this subsection for a person who has made a prima facie showing that the applicant meets all of the requirements for a license and possesses the experience required. The temporary license shall be effective only until the board has had the opportunity to investigate the applicant's qualifications for licensure pursuant to subsection 1 of this section and notify the applicant that the applicant's application for a license has been either granted or rejected. In no event shall a temporary license be in effect for more than twelve months after the date of issuance nor shall a temporary license be reissued to the same applicant. No fee shall be charged for a temporary license. The holder of a temporary license which has not expired, suspended or revoked, shall be deemed to be the holder of a license issued pursuant to this section until the temporary license expires, is terminated, or is suspended or revoked.

5. An applicant for an examination who has met the educational requirements of subdivision (4) of subsection 1 of this section or who reasonably expects to meet those requirements within sixty days after the examination shall be eligible for examination if the applicant also meets the requirements of subdivisions (1), (2) and (3) of subsection 1 of this section. In the case of an applicant admitted to examination on the reasonable expectation that the applicant will meet the educational requirements within sixty days, no license shall be issued, nor credit for the examination or any part thereof given

**unless the educational requirement is in fact met within the sixty-day period.**

**326.283. 1. (1) An individual, whose principal place of business is not in this state, having a valid designation to practice public accountancy from any state which the board by rule has determined to be in substantial equivalence with the licensure requirements of sections 326.250 to 326.331 or if the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331 shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state, provided the individual shall notify the board of his or her intent to engage in the practice of accounting with a client within this state, whether in person, by electronic or technological means, or any other manner. The board by rule may require individuals to obtain a license.**

**(2) Any individual of another state exercising the privilege afforded pursuant to this section consents, as a condition of the grant of this privilege to:**

**(a) The personal and subject matter jurisdiction and disciplinary authority of the board;**

**(b) Comply with this chapter and the board's rules; and**

**(c) The appointment of the state board which issued the individual's license as his or her agent upon whom process may be served in any action or proceeding by this board against the individual.**

**2. A licensee of this state offering or rendering services or using his or her certified public accountant title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding section 326.274, the board may investigate any complaint made by the board of accountancy of another state.**

**326.286. 1. The board may grant or renew licenses to persons who make application and demonstrate that:**

**(1) Their qualifications, including the qualifications prescribed by section 326.280, are in accordance with this section; or**

**(2) They are eligible under the substantial equivalency standard pursuant to subsection 1 of section 326.283.**

**2. Licenses shall be initially issued, and renewed, for periods of not more than three years but in any event shall expire on the renewal date following issuance or renewal. Applications for licenses shall be made in such form, and in the case of applications for renewal, between such dates, as the board by rule shall specify. Application and renewal fees shall be determined by the board by rule.**

**3. With regard to applicants that do not qualify for reciprocity under the substantial equivalency standard set out in subsection 1 of section 326.283, the board may issue a license to an applicant upon a showing that:**

**(1) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;**

**(2) The applicant had four years of experience outside of this state of the type described in subdivision (6) of subsection 1 of section 326.280 or meets equivalent requirements prescribed by the board by rule, after passing the examination upon which the applicant's license was based and within the ten years immediately preceding the application; and**

**(3) If the applicant's certificate, license or permit was issued more than four years prior to the application for issuance of a license pursuant to this section, that the applicant has fulfilled the requirements of continuing professional education that would have been applicable pursuant to subsection 6 of this section.**

**4. As an alternative to the requirements of subsection 3 of this section, a certified public accountant licensed by another state who establishes a principal place of business in this state shall request the issuance of a license from the board prior to establishing the principal place of business. The board may issue a license to the person who obtains from the NASBA National Qualification Appraisal Service, verification that the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331.**

**5. An application pursuant to this section may be made through the NASBA Qualification Appraisal Service.**

**6. For renewal of a license pursuant to this section, each licensee shall participate in a program of learning designed to maintain professional competency. The program of learning must comply with rules adopted by the board. The board by rule may create an exception to this requirement for licensees who do not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Licensees granted an exception by the board must place the word "inactive" adjacent to their certified public accountant title on any business card, letterhead or any other document or device, with the exception of their certified public accountant certificate, on which their certified public accountant title appears.**

**7. Applicants for initial issuance or renewal of licenses pursuant to this section shall list all states in which they have applied for or hold certificates, licenses or**

permits and list any past denial, revocation or suspension or any discipline of a certificate, license or permit, and each holder of or applicant for a license shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation or suspension or any discipline of a certificate, license or permit by another state.

**8. The board may issue a license to a holder of a substantially equivalent foreign designation, provided that:**

**(1) The foreign authority which granted the designation makes similar provisions to allow a person who holds a valid license issued by this state to obtain such foreign authority's comparable designation; and**

**(2) The foreign designation:**

**(a) Was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;**

**(b) Entitles the holder to issue reports upon financial statements; and**

**(c) Was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law; and**

**(3) The applicant:**

**(a) Received the designation based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted;**

**(b) Completed an experience requirement, substantially equivalent to the requirement set out in subdivision (6) of subsection 1 of section 326.280, in the jurisdiction which granted the foreign designation or has completed four years of professional experience in this state; or meets equivalent requirements prescribed by the board by rule, within the ten years immediately preceding the application; and**

**(c) Passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board.**

**9. An applicant pursuant to subsection 8 of this section shall list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy, and each holder of a license issued pursuant to this subsection shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation, suspension or any discipline of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.**

**10. The board has the sole authority to interpret the application of the provisions of subsections 8 and 9 of this section.**

**11. The board by rule shall require as a condition for renewal of a license, by any**

licensee who performs review or compilation services for the public other than through a certified public accountant firm, that the individual undergo, no more frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.

**326.289. 1.** The board may grant or renew permits to practice as a certified public accounting firm to entities that make application and demonstrate their qualifications in accordance with this section or to certified public accounting firms originally licensed in another state that establish an office in this state. A firm must hold a permit issued pursuant to this section in order to provide attest, review or compilation services or to use the title certified public accountant or certified public accounting firm.

**2.** Permits shall be initially issued and renewed for periods of not more than three years but in any event for a specific period as prescribed by board rule, following issuance or renewal.

**3.** The board shall determine by rule the form for application and renewal of permits and shall annually determine the fees for permits and their renewals.

**4.** An applicant for initial issuance or renewal of a permit to practice pursuant to this section shall be required to show that:

**(1)** Notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, principals, shareholders, members or managers, belongs to licensees who are licensed in some state, and the partners, officers, principals, shareholders, members or managers, whose principal place of business is in this state, and who perform professional services in this state are licensees issued pursuant to section 326.280 or the corresponding provision of prior law. Although firms may include non-licensee owners, the firm and its ownership must comply with rules promulgated by the board;

**(2)** Any certified public accounting firm may include owners who are not licensees provided that:

**(a)** The firm designates a licensee of this state, who is responsible for the proper registration of the firm and identifies that individual to the board;

**(b)** All non-licensee owners are active individual participants in the certified public accounting firm or affiliated entities;

**(c)** The firm complies with other requirements as the board may impose by rule;

**(3)** Any licensee who is responsible for supervising attest, review or compilation services or signs or authorizes someone to sign the licensee's report on the financial statements on behalf of the firm shall meet competency requirements as determined by the board by rule, which shall include one year of experience in addition to the

experience required pursuant to subdivision (6) of subsection 1 of section 326.280 which shall be verified by a licensee. The additional experience required by this subsection shall include experience in attest work supervised by a licensee.

5. An applicant for initial issuance or renewal of a permit to practice shall be required to register each office of the firm within this state with the board and to show that all attest, review and compilation services rendered in this state are under the charge of a licensee.

6. No licensee or firm holding a permit pursuant to this chapter shall use a professional or firm name or designation that is misleading as to:

- (1) The legal form of the firm;
- (2) The persons who are partners, officers, members, managers or shareholders of the firm; or
- (3) Any other matter.

The names of one or more former partners, members or shareholders may be included in the name of a firm or its successor unless the firm becomes a sole proprietorship because of the death or withdrawal of all other partners, officers, members or shareholders. The use of a fictitious name by a firm is permissible if the fictitious name is registered with the board and is not otherwise misleading. The name of a firm may not include the name of an individual who is neither a present nor a past partner, member or shareholder of the firm or its predecessor. The name of the firm may not include the name of an individual who is not a licensee.

7. Applicants for initial issuance or renewal of permits shall in their application list all states in which they have applied for or hold permits as certified public accounting firms and list any past denial, revocation, suspension or any discipline of a permit by any other state, and each holder of or applicant for a permit pursuant to this section shall notify the board in writing, within thirty days after its occurrence, of any change in the identities of partners, principals, officers, shareholders, members or managers whose principal place of business is in this state, any change in the number or location of offices within this state, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation, suspension or any discipline of a permit by any other state.

8. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel, after receiving or renewing a permit, shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board may result in the suspension or revocation of the firm permit.

**9. The board by rule shall require, as a condition to the renewal of permits, that firms undergo, no more frequently than once every three years, peer reviews conducted in a manner as the board shall specify, and the review shall include a verification that individuals in the firm who are responsible for supervising attest, review and compilation services or sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such rule:**

**(1) Shall include reasonable provision for compliance by a firm showing that it has, within the preceding three years, undergone a peer review that is a satisfactory equivalent to peer review generally required pursuant to this subsection;**

**(2) May require, with respect to peer reviews, that peer reviews be subject to oversight by an oversight body established or sanctioned by board rule, which shall periodically report to the board on the effectiveness of the review program under its charge, and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board; and**

**(3) Shall require, with respect to peer reviews, that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that neither the board nor any third party, other than the oversight body, shall have access to documents furnished or generated in the course of the peer review of the firm except as provided in subdivision (2) of this subsection.**

**10. Prior to January 1, 2008, licensees who perform fewer than three attest services during each calendar year shall be exempt from the requirements of subsection 9 of this section.**

**11. The board by rule shall have the authority to charge a fee for oversight of peer reviews, provided that the fee charged shall be substantially equivalent to the cost of oversight.**

**12. In connection with proceedings before the board or upon receipt of a complaint involving the licensee performing peer reviews, the board shall not have access to any documents furnished or generated in the course of the performance of the peer reviews except for peer review reports, letters of comment and summary review memoranda. The documents shall be furnished to the board only in a redacted manner that does not specifically identify any firm or licensee being peer reviewed or any of their clients.**

**13. The peer review processes shall be operated and documents generated thereby be maintained in a manner designed to preserve their confidentiality, and no third party, other than the oversight body, the board, subject to the provisions of subsection 12 of this section or the organization performing peer review shall have**

access to documents furnished or generated in the course of the review, and all documents shall be privileged and closed records for all purposes and all meetings at which the documents are discussed shall be considered to be closed meetings pursuant to subdivision (1) of section 610.021, RSMo, and the proceedings, records and work papers of the board and any peer review subjected to the board process shall be privileged and shall not be subject to discovery, subpoena or other means of legal process or introduction into evidence at any civil action, arbitration, administrative proceeding or board proceeding and no member of the board or person who is involved in the peer review process shall be permitted or required to testify in any civil action, arbitration, administrative proceeding or board proceeding as to any matters produced, presented, disclosed or discussed during or in connection with the peer review process or as to any findings, recommendations, evaluations, opinions or other actions of such committees or any of its members, provided, however, that information, documents or records that are publicly available are not to be construed as immune from discovery or use in any civil action, arbitration, administrative proceeding or board proceeding merely because they were presented or considered in connection with the peer review process.

**326.292. 1. Only licensees may issue a report on financial statements of any person, firm, organization or governmental unit or offer to render or render any attest service. This restriction does not prohibit any act of a public official or public employee in the performance of that person's duties as such; nor prohibit the performance by any non-licensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of non-attest financial statements. Non-licensees may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).**

**2. Only certified public accountants shall use or assume the title certified public accountant, or the abbreviation CPA or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant. Nothing in this section shall prohibit:**

**(1) A certified public accountant whose certificate was in full force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who does not engage in the practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title certified public accountant or abbreviation CPA;**

**(2) A person who holds a certificate, then in force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who is regularly employed by, or is a director or officer of, a corporation, partnership, association or business trust, in his**

or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association or business trust provided the capacity is so designated, and provided in the signature line the title CPA or certified public accountant is not designated.

**3. No firm shall provide attest services or assume or use the title certified public accountants, or the abbreviation CPAs, or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such firm is a certified public accounting firm unless:**

**(1) The firm holds a valid permit issued pursuant to section 326.289; and**

**(2) Ownership of the firm is in accord with section 326.289 and rules promulgated by the board.**

**4. Only persons holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use the title certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, accredited accountant or any other title or designation likely to be confused with the titles certified public accountant or public accountant, or use any of the abbreviations CA, LA, RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title "enrolled agent" or EA shall only be used by individuals so designated by the Internal Revenue Service. Nothing in this section shall prohibit the use or issuance of a title for non-attest services provided that the organization and the title issued by the organization existed prior to August 28, 2001.**

**5. (1) Non-licensees may not use language in any statement relating to the financial affairs of a person or entity which is conventionally used by certified public accountants in reports on financial statements. Non-licensees may use the following safe harbor language:**

**(a) For compilations: "I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of a financial statement information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.";**

**(b) For reviews: "I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. These financial statements (information) are (is) the responsibility of the company's management. I (We) have not audited the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them."**

**(2) Only persons or firms holding a valid license or permit issued pursuant to**

**section 326.280 or 326.289 shall assume or use any title or designation that includes the words accountant or accounting, in connection with any other language, including the language of a report, that implies that the person or firm holds a license or permit or has special competence as an accountant or auditor, provided, however, that this subsection does not prohibit any officer, partner, principal, member, manager or employee of any firm or organization from affixing that person's own signature to any statement in reference to the financial affairs of the firm or organization with any wording designating the position, title or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or "accounting" for non-attest purposes.**

**6. Licensees performing attest, review or compilation services must provide those services in accordance with professional standards as determined by the board by rule.**

**7. No licensee or holder of a provisional license or firm holding a permit pursuant to sections 326.280 to 326.289 shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, principals, officers, members, managers or shareholders of the firm, or about any other matter.**

**8. None of the foregoing provisions of this section shall have any application to a person or firm holding a certification, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in the country, whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement, who performs no attest, review or compilation services and who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.**

**9. No licensee whose license was issued pursuant to section 326.280 or issued pursuant to prior law shall perform attest services through any certified public accounting firm that does not hold a valid permit issued pursuant to section 326.289.**

**10. No individual licensee shall issue a report in standard form upon a compilation or review of financial information through any form of business that does not hold a valid permit issued pursuant to section 326.289 unless the report discloses the name of the business through which the individual is issuing the report, and the**

**individual:**

**(1) Signs the compilation or review report identifying the individual as a licensee;**

**(2) Meets the competency requirement provided in applicable standards; and**

**(3) Undergoes no less frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.**

**11. Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.**

**12. Nothing herein shall prohibit any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his or her duties in that capacity.**

**13. Nothing herein shall prohibit any director or officer of a corporation, partner or a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or courts, or an employee of any of the foregoing, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to the corporation, partnership, business enterprise, joint venture or committee, provided the capacity is designated on the statement or report.**

**14. (1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client:**

**(a) An audit or review of a financial statement; or**

**(b) A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or**

**(c) An examination of prospective financial information.**

**This prohibition applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.**

**(2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose in writing that fact to any person or entity to whom the licensee recommends**

or refers a product or service to which the commission relates.

(3) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose in writing the acceptance or payment to the client.

15. (1) A licensee shall not:

(a) Perform for a contingent fee any professional services for, or receive a fee from, a client for whom the licensee or the licensee's firm performs:

a. An audit or review of a financial statement; or

b. A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

c. An examination of prospective financial information; or

(b) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

(2) The prohibition in subdivision (1) of this subsection applies during the period in which the licensee is engaged to perform any of those services and the period covered by any historical financial statements involved in any services.

(3) A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

16. Any person who violates any provision of subsections 1 through 5 of this section shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has violated this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings.

326.295. 1. In order to assure a free flow of information for peer review pursuant to section 326.286 or 326.289, or proceedings before the board pursuant to section 326.310, all complaint files, investigation files, and all other investigation reports and other investigative information in the possession of the board or peer review committee or firm, acting pursuant to the authority of section 326.286, 326.289 or 326.310, or its employees or agents, which relate to the hearings or review shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person, other than the licensee and the board or

peer review committee or firm or their employees and agents involved in such proceedings or be admissible in evidence in any judicial or administrative proceeding, other than the proceeding for which such material was prepared or assembled. A final written decision and finding of fact of the board, pursuant to section 326.310, shall be a public record.

2. A person shall not be civilly liable as a result of his or her acts, omissions or decisions in good faith as a member of the board, a peer review committee or firm, or as an employee or agent thereof, in connection with such person's duties.

3. A person shall not be civilly liable as a result of filing a report or complaint with the board or a peer review committee, or for the disclosure to the board or a peer review committee or its agents or employees, whether or not pursuant to a subpoena, of records, documents, testimony or other forms of information which constitute privileged matter in connection with proceedings of a peer review committee, or other board proceedings pursuant to section 326.310. However, immunity from civil liability shall not apply if the act is done with malice.

**326.298. 1.** Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a license or permit is required upon a showing that acts or practices were performed or offered to be performed without a license or permit; or

(2) Engaging in any practice or business authorized by a certificate, license or permit issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client of the licensee.

2. Any action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought pursuant to this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

**326.304.** At all proceedings for the enforcement of these or any other provisions of this chapter the board shall, as it deems necessary, select, in its discretion, either:

(1) The attorney general or one of his or her designated assistants; or

(2) Other legal counsel to appear and represent the board at each stage of the proceeding or trial until its conclusion.

**326.307.** The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, either printed or through

electronic media, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought pursuant to section 326.298 that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device and that such person is holding himself or herself out to be a certified public accountant or a public accountant holding a license pursuant to section 326.280. In any such action evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

**326.310. 1.** The board may refuse to issue any license or permit required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

**2.** The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, or may cause settlement procedures to be initiated as provided by section 621.045, RSMo, against any certified public accountant or permit holder required by this chapter or any person who has failed to renew or has surrendered the person's certificate, license or permit for any one or any combination of the following causes:

**(1)** Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that the use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

**(2)** The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

**(3)** Use of fraud, deception, misrepresentation or bribery in securing any certificate, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

**(4)** Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

**(5)** Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or

**regulated by this chapter;**

**(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;**

**(7) Impersonation of any person holding a certificate or permit or allowing any person to use his or her certificate or permit or diploma from any school;**

**(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the certified public accountant or applicant, including but not limited to, the denial of licensure, surrender of a license, allowing a license to expire, or lapse, or discontinuing or limiting the practice of accounting while subject to an investigation or while actually under investigation by any licensing authority, branch of the armed forces of the United States of America, court, agency of the state or federal government, or employer;**

**(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;**

**(10) Assisting or enabling any person to practice or offer to practice accountancy pursuant to this chapter who is not eligible to practice pursuant to this chapter;**

**(11) Issuance of a certificate or permit based upon a material mistake of fact;**

**(12) Failure to display a valid certificate or permit required by this chapter or any rule promulgated pursuant to this chapter;**

**(13) Violation of any professional trust or confidence;**

**(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;**

**(15) Violation of professional standards or rules of professional conduct applicable to the accountancy profession as promulgated by the board;**

**(16) Failure to comply with any final order of a court of competent jurisdiction enforcing a subpoena or subpoena duces tecum from the board;**

**(17) Failure to comply with any final order of the board;**

**(18) Failure to maintain documentation evidencing compliance with the board's continuing professional education requirements;**

**(19) Failure, on the part of a holder of a certificate, license or permit pursuant to section 326.280 or 326.289, to maintain compliance with the requirements for issuance or renewal of such certificate, license, permit or provisional license or to report**

changes to the board pursuant to sections 326.280 to 326.289;

(20) Making any false or misleading statement or verification in support of an application for a certificate, license or permit filed by another.

3. Proceedings pursuant to this section shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, assess an administrative penalty not to exceed two thousand dollars per violation, censure or place on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the certificate, license or permit. In any order of revocation, the board may provide that the person may not apply for a new license for a maximum of three years and one day following the date of the order of revocation. All stay orders shall toll this time period. In lieu of or in addition to any remedy specifically provided in subsection 1 of this section, the board may require of a licensee:

(1) A peer review conducted as the board may specify; or

(2) Satisfactory completion of continuing professional education programs as the board may specify; or

(3) A peer review conducted as the board may specify and satisfactory completion of continuing professional education programs as the board may specify.

326.313. After notice and hearings as provided in chapter 621, RSMo, the board may revoke the permit of a CPA firm if it does not have all the qualifications prescribed by section 326.289; or may revoke, suspend, or censure the permit holder for any of the causes enumerated in section 326.310.

326.316. Upon application in writing and after hearing pursuant to notice, the board may issue a new license to a licensee whose license has been revoked, or may reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.

326.319. 1. All moneys payable pursuant to the provisions of this chapter shall be collected by the division of professional registration, who shall transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "State Board of Accountancy Fund".

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule certificate or permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The

amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

**3. In any proceeding in which a remedy provided by subsection 1 or 2 of section 326.310 is imposed, the board may also require the respondent licensee to pay the costs of the proceeding if the board is a prevailing party or in settlement. The moneys shall be placed in the state treasury to the credit of the "Missouri State Board of Accountancy Investigation Fund", which is hereby created, to be used solely for investigations as provided in this chapter. The moneys shall not be considered in calculating amounts to be transferred to general revenue as provided in subsection 2 of this section. The fund shall be used solely for board investigations.**

**4. The board shall set the amount of the fees which this chapter authorizes and requires by rule pursuant to chapter 536, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.**

**326.322. 1. Except by permission of the client for whom a licensee performs services or the heirs, successors or personal representatives of such client, a licensee pursuant to this chapter shall not voluntarily disclose information communicated to the licensee by the client relating to and in connection with services rendered to the client by the licensee. The information shall be deemed privileged and confidential, provided, however, that nothing herein shall be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in investigations, in ethical investigations conducted by private professional organizations, or in the course of peer reviews, or to other persons active in the organization performing services for that client on a need to know basis or to persons in the entity who need this information for the sole purpose of assuring quality control.**

**2. A licensee shall not be examined by judicial process or proceedings without the consent of his client as to any communication made by the client to him in person or through the media of books of account and financial records, or his advice, reports or working papers given or made thereon in the course of professional employment, nor shall a secretary, stenographer, clerk or assistant of a licensee, or a public accountant, be examined, without the consent of the client concerned, regarding any fact the knowledge of which he has acquired in his capacity as a licensee. This privilege shall exist in all cases except when material to the defense of an action against a licensee.**

**326.325. 1. Subject to the provisions of section 326.322, all statements, records,**

schedules, working papers and memoranda made by a licensee or a partner, shareholder, officer, director, member, manager or employee of a licensee, incident to, or in the course of, rendering services to a client while a licensee except the reports submitted by the licensee to the client and except for records that are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper or memorandum shall be sold, transferred or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners, stockholders, members or new partners, new stockholders or new members of the licensee, or any combined or merged firm or successor in interest to the licensee. Nothing in this section should be construed as prohibiting any temporary transfer of work papers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to section 326.322.

**2. A licensee shall furnish to a client or former client, upon request and reasonable notice:**

**(1) A copy of the licensee's working papers, to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and**

**(2) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account; the licensee may make and retain copies of such documents of the client when they form the basis for work done by the licensee.**

**3. Nothing in this section shall require a licensee to keep any workpaper beyond the period prescribed in any other applicable statute, nor shall it prohibit a licensee from charging a reasonable fee for furnishing the requested materials.**

**4. The provisions of this chapter to the contrary notwithstanding, documents otherwise subject to lawful discovery in a court proceeding pursuant to the Missouri Rules of Civil Procedure prior to August 28, 2001, shall remain so.**

**326.328. Application by a person or a firm not a resident of this state shall constitute and authorize appointment of the Missouri secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to services performed within this state.**

**326.331. If any provisions of sections 326.250 to 326.331 or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of the invalid provision to others or other circumstances shall not be**

**affected.**

[326.011. 1. As used in sections 326.011 to 326.230, the following words mean:

(1) "Attestation", the opinion of a certified public accountant or public accountant as to the reliability or fairness of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public or private, following the completion of an audit, in accordance with generally accepted accounting and auditing standards;

(2) "Board", the Missouri state board of accountancy;

(3) "Live permit", a permit issued pursuant to section 326.210 which has not expired or been revoked or suspended;

(4) "State", the term "state" when used herein includes any state, territory or insular possession of the United States or the District of Columbia.

2. Masculine terms when used herein shall also include the feminine.]

[326.012. Nothing contained in sections 326.011 to 326.230 shall prohibit:

(1) A certified public accountant of another state, or any accountant who holds a certificate, degree or license in a foreign country, constituting a recognized qualification for the practice of public accountancy in such country, from temporarily practicing in this state on professional business incident to his regular practice outside this state; except that, such temporary practice shall be conducted in conformity with the laws of Missouri and the regulations and rules of professional conduct promulgated by the board;

(2) Any person from signing, delivering or issuing financial, accounting or related statements or reports thereon prepared by him, or under his supervision, if he in no way indicates, or implies, that he is attesting to such statements or reports; or from preparation of tax returns and schedules relative thereto and representation before appropriate governmental agencies with respect to the tax returns, including the preparation of any schedules required for the representation before such agencies;

(3) Any person not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant or partnership or corporation composed of certified public accountants or public accountants holding a permit to practice issued under section 326.210; provided that such employee or assistant shall not issue any accounting or financial statement over his name;

(4) Any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his duties in such capacity;

(5) Any attorney at law, or partnership of attorneys at law, or professional corporation of attorneys at law from signing a financial, accounting or related statement, or report thereon, prepared by him, or them, as an incident to the practice of law;

(6) A person who holds a certificate as a certified public accountant, then in full

force and effect, issued under the laws of this or any other state or foreign country, and who does not engage in the practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title "certified public accountant" or abbreviation "C.P.A.", or in the case of a foreign accountant, the title under which he is generally known in his country;

(7) Any director or officer of a corporation, partner of a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or the courts, or an employee of any of the foregoing, in his capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to such corporation, partnership, business enterprise, joint venture or committee, provided such capacity is so designated on such statement or report;

(8) A person who holds a certificate as a certified public accountant, then in force and effect, issued under the laws of this or any other state or foreign country and who is regularly employed by, or is a director or officer of, a corporation, partnership, association, or business trust, in his capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association, or business trust provided such capacity is so designated thereon, and provided in the signature line the title "C.P.A.", or "certified public accountant" is not designated thereon.]

[326.021. 1. No person shall assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under section 326.060, holds a live permit issued under section 326.210, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under section 326.055; provided, however, that a foreign accountant who holds a live permit issued under section 326.210 may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

2. No partnership or corporation shall assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership or corporation is composed of certified public accountants unless such partnership or corporation is registered as a partnership or corporation of certified public accountants under section 326.040 or 326.050, holds a live permit issued under section 326.210, and all offices of such partnership or corporation in this state for the practice of public accounting are maintained and registered as required under section 326.055.

3. No person shall assume or use the title or designation "public accountant" or any

other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a public accountant, unless such person has received a certificate as a certified public accountant under section 326.060 and holds a live permit issued under section 326.210, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under section 326.055; provided, however, persons who, on September 28, 1977, held public accountant certificates theretofore issued under the laws of this state and who shall hold a live permit shall not be prohibited from using such title or designation.

4. No partnership or corporation shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership or corporation is composed of public accountants, unless such partnership or corporation is registered as a partnership or corporation of public accountants or certified public accountants under section 326.040 or 326.050 and holds a live permit issued under section 326.210, and all offices of such partnership or corporation in this state for the practice of public accounting are maintained and registered as required under section 326.055.

5. No person, partnership or corporation shall assume or use the title or designation "certified accountant", or "public accountant", or any other title or designation likely to be confused with "certified public accountant" or "public accountant", or the abbreviations "C.P.A." or "P.A." or similar abbreviations likely to be confused with "C.P.A." or "P.A."; except any one who holds a live permit issued under section 326.210 and all of whose offices in this state for the practice of public accounting are maintained and registered as required under section 326.055 and provided further that a foreign accountant who holds a live permit issued under section 326.210 and all of whose offices in this state for the practice of public accounting are maintained and registered as required under section 326.055, may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

6. No person shall sign or affix his name or any trade or assumed name used by him in his profession or business with any wording indicating that he is a certified public accountant or public accountant, or with any wording indicating that he has expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless he holds a live permit issued under section 326.210 and all of his offices in this state for the practice of public accounting are maintained and registered under section 326.055; provided, however, that the provisions of this subsection

shall not prohibit any officer, employee, partner or principal of any organization from affixing his signature to any statement or report in reference to the affairs of said organization with any wording designating the position, title or office which he holds in said organization; nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties as such.

7. No person shall sign or affix a partnership or corporate name with any wording indicating that it is a partnership or corporation composed of certified public accountants, public accountants or persons having expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless the partnership or corporation holds a live permit issued under section 326.210 and all of its offices in this state for the practice of public accounting are maintained and registered as required under section 326.055.

8. No person or partnership or corporation not holding a live permit issued under section 326.210 shall hold himself or itself out to the public as a "certified public accountant" or "public accountant" by use of any such words on any sign, card, letterhead or in any advertisement or directory, without indicating thereon or therein, prominently displayed, that such person, partnership or corporation does not hold such a permit; provided, that this subsection shall not prohibit any officer, employee, partner or principal of any organization from describing himself by the position, title or office he holds in such organization; nor shall this subsection prohibit any act of public official or public employee in the performance of his duties as such.

9. No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation "and company", "and Co." or "and associates" or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation registered under section 326.040 or 326.050; provided that a sole proprietor or partnership lawfully using such title or designation in conjunction with such names or designation on September 28, 1977, may continue to do so if he or it otherwise complies with the provisions of sections 326.011 to 326.230.]

[326.022. 1. Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing

that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client of the licensee.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.]

[326.040. 1. The board shall authorize the registration, as certified public accountants, of firms and partnerships, provided it be shown to the board that:

(1) Each member or partner of the firm or partnership, resident, or engaged in the practice of public accountancy in the United States is in good standing as a certified public accountant in one or more states; and

(2) Either:

(a) Each resident or local member or partner is the holder of a valid certificate and live permit as a certified public accountant issued under the laws of this state; or

(b) If there be no resident or local member or partner, each resident or local manager is the holder of a valid certificate and live permit as a certified public accountant issued under the laws of this state.

2. After the registration of a firm or partnership with the board, and the obtention of a permit, and not otherwise, the firm or partnership shall be entitled to use the designation "certified public accountant" in connection with the firm or partnership name. When firms or partnerships so registered shall secure permits, the name of the firm or partnership shall be listed in the register, together with the names of the members and managers thereof, who are local or resident in this state, with the designation "C.P.A." after each name; and the names of nonresident members who hold valid certificates issued under the laws of this state may also be listed.

3. The board shall authorize the registration, as public accountants, of firms or partnerships, and issue to them permits to practice as such; provided, the resident or local partner or partners, or, if there be no resident or local partner, the resident or local manager or managers hold a valid certificate and live permit as a public accountant or as a certified public accountant issued under the laws of this state. After the registration of the firm or partnership with the board, and the obtention of a permit, and not otherwise, the firm shall be entitled to use the designation "public accountant" in connection with the firm or

partnership name. When firms or partnerships so registered secure permits, the name of the firm or partnership shall be listed in the register, together with the names of the partners or managers thereof, local or resident in this state, with the appropriate title or initials representing their respective capacities under this chapter. The names of nonresident partners who hold valid certificates issued under the laws of this state may also be listed.

4. The term "local", as used herein, is intended to denote persons engaged in practicing public accountancy in this state, who spend all or the greater part of their time during business hours in this state, but reside in another state.]

[326.050. 1. No corporation, whether organized under the laws of this, or any other state, shall be entitled to registration as a certified public accountant, except a corporation formed pursuant to the professional corporation law of Missouri, or pursuant to the laws of another jurisdiction authorized to practice accounting in such jurisdiction and qualified to do business in this state under the professional corporation law of this state, and which conforms to such corporate practice rules as the board may promulgate, provided further that the president or other managing officer is the holder of a valid certificate and live permit as a certified public accountant in this state.

2. The board is authorized to register corporations as public accountants, and to issue to them permits to practice as such, provided, that such corporations on September 28, 1977, were legally organized under the laws of this state, and are entitled under their articles of incorporation and in accordance with the laws of this state, to practice public accountancy, within the meaning of sections 326.011 to 326.230; and provided further, that the president or other managing officer is the holder of a valid certificate as a certified public accountant or as a public accountant, and an unexpired permit to practice as such.

3. A corporation referred to in subsection 2 of this section, when duly registered and holding a valid and effective permit, may use the designation "public accountants" in connection with its corporate name and a corporation registered pursuant to subsection 1 of this section may use the designation "certified public accountant"; provided, however, that whenever the corporate name is used with one of such designation, save in directory listings, the names of the president, secretary and manager of its public accounting department shall also be stated or signed.

4. It is further provided that agricultural nonprofit associations which, on the twenty-third day of November, 1943, were engaged in rendering accounting services to members of their association, to other agricultural or farmers' associations, or to agricultural cooperative associations, shall be registered by the board as a public accountant, under the provisions of sections 326.011 to 326.230, and issued a permit to practice as such; provided, however, such registration and permit shall not authorize such associations to render

accounting services to others than its members, other agricultural or farmers' associations, and agricultural cooperative associations.]

[326.055. 1. Each office established and maintained in this state for the practice of public accounting in this state by a certified public accountant or partnership or corporation of certified public accountants, or by a public accountant or a partnership or corporation of public accountants shall be registered under sections 326.011 to 326.230 with the board but no fee shall be charged for such registration. Each such office shall be under the direct supervision of a resident manager who may be either a principal shareholder or a staff employee holding a certificate as a certified public accountant under section 326.060 and a live permit under section 326.210.

2. As a condition of registering an office under this section the board may, after November 30, 1982, and after a hearing with the licensee in accordance with section 326.132, for those licensees who have issued reports on financial statements, during the preceding five-year period, which the board has determined to have been substandard, require such licensee applying for registration, to submit to a review and evaluation of the system of quality control (peer review) of the accounting and auditing practice of the licensee. Such reviews shall be made by committees or other certified public accountant firms nominated by the Missouri Society of Certified Public Accountants and accredited by the board in accordance with regulations promulgated by the board. The board shall accept peer review reports filed with federal regulatory agencies, other state boards or professional associations to meet such review requirement if the report on such review conforms to board regulations. However, an addendum to such peer review reports may be required by the board to include any Missouri office of a multistate firm which has issued financial reports or financial statements described in this section.]

[326.060. 1. The certificate of "certified public accountant" shall be granted by the board to any person:

(1) Who is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state;

(2) Who has attained the age of twenty-one years;

(3) Who is of good moral character;

(4) Who either:

(a) Applies for the initial examination referred to in subdivision (5) of this subsection prior to June 30, 1999, and holds a baccalaureate degree conferred by an accredited college or university recognized by the board, with a concentration in accounting, or what the board determines to be substantially the equivalent of a concentration in accounting; or

(b) Applies for the initial examination referred to in subdivision (5) of this

subsection on or after June 30, 1999, and has at least one hundred fifty semester hours of college education including a baccalaureate or higher degree conferred by an accredited college or university recognized by the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate; and

(5) Who shall have passed a written examination in accounting, auditing, and such other related subjects as the board shall determine to be appropriate.

2. The board shall by regulation prescribe the terms and conditions, which shall be substantially the same as any established in subsection 3 of this section, under which credit will be granted to a candidate for the candidate's satisfactory completion of a written examination in any one or more of the subjects specified in subdivision (5) of subsection 1 of this section, given by the licensing authority in any other state; provided that when the candidate took such examination in such other state the candidate was not a resident in this state, had no place of business in this state, or, as an employee, was not regularly employed in this state. Such regulations shall include such requirements as the board shall determine to be appropriate in order that any examination approved as a basis for any such credit shall, in the judgment of the board, be at least as thorough as the most recent examination given by the board at the time of the granting of such credit.

3. The board shall by regulation prescribe the terms and conditions under which a candidate who passes the examination in one or more of the subjects indicated in subdivision (5) of subsection 1 of this section, may be reexamined in only the remaining subjects, with credit for the subjects previously passed. A candidate shall be entitled to any number of reexaminations pursuant to subdivision (5) of subsection 1 of this section. A candidate who fails to pass any section or sections of the examination may pay the fee and take such sections of the examination as the board by rule prescribes again at any regularly scheduled examination.

4. The board shall charge each candidate a fee, as prescribed in section 326.200. Fees for reexamination pursuant to subdivision (5) of subsection 1 of this section shall also be charged by the board as prescribed in section 326.200. The applicable fee shall be paid by the candidate at the time the candidate applies for examination or reexamination.

5. Any person who has received from the board a certificate as a certified public accountant and who holds a permit issued pursuant to section 326.210, which is in full force and effect, shall be styled and known as a "certified public accountant" and may also use the abbreviation "C.P.A.". Any certified public accountant may also be known as a "public accountant".

6. Persons who, on September 28, 1977, held certified public accountant certificates or public accountant certificates theretofore issued pursuant to the laws of this state shall

not be required to obtain additional certificates pursuant to sections 326.011 to 326.230, but shall otherwise be subject to all provisions of sections 326.011 to 326.230; and such certificates theretofore issued shall, for all purposes, be considered certificates issued pursuant to sections 326.011 to 326.230 and subject to the provisions of sections 326.011 to 326.230.

7. The board shall waive the examination pursuant to subdivision (5) of subsection 1 of this section, and shall issue a certificate as a "certified public accountant" to any person paying a fee equal to the total examination fee as provided in section 326.200 and possessing the qualifications specified in subdivisions (1), (2), and (3) of subsection 1 of this section and what the board determines to be substantially the equivalent of the applicable qualifications pursuant to subdivision (4) of subsection 1 of this section who is either the holder of a:

(1) Certificate as a certified public accountant, then in full force and effect, issued under the laws of any state; or

(2) Designation in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant of this state, which is then in full force and effect; provided that:

(a) The foreign authority which granted the designation makes similar provisions to allow a person who holds a valid certificate and permit to practice issued by this state to obtain such foreign authority's comparable designation and the foreign designation:

a. Was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

b. Entitles the holder to issue reports upon financial statements; and

c. Was issued upon the basis of educational and examination requirements established by the foreign authority or by law; and

(b) The applicant:

a. Received the designation, based on educational and examination standards substantially equivalent to those in effect in this state, at the time the foreign designation was granted; and

b. Passed a uniform qualifying examination in national standards acceptable to the board;

(3) An applicant pursuant to subdivision (1) or (2) of this subsection shall, in the application, list all jurisdictions, foreign and domestic, in which the applicant has applied for, or holds a designation to practice public accounting, and each holder of a certificate issued pursuant to this subsection shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

8. Upon application, the board shall issue a temporary permit and certificate to an applicant pursuant to this subsection for a certificate as a certified public accountant who has made a prima facie showing that the applicant meets all of the requirements for such a certificate and possesses the experience required for issuance of a permit. The temporary permit and certificate shall be effective only until the board shall have had the opportunity to investigate the applicant's qualifications for licensure pursuant to subsection 1 of this section and to notify the applicant that the applicant's application for a certificate and permit has been either granted or rejected. In no event shall such temporary certificate and temporary permit be in effect for more than twelve months after the date of issuance nor shall a temporary certificate or temporary permit be reissued to the same applicant. No fee shall be charged for such temporary certificate or temporary permit. The holder of a temporary certificate and temporary permit which has not expired, or been suspended or revoked, shall be deemed to be the holder of a certificate issued pursuant to this section and the holder of a permit issued pursuant to section 326.210 until such temporary certificate and temporary permit expires, is terminated, or is suspended or revoked.

9. A candidate submitting an application for a certificate by examination who has met the educational requirements of subdivision (4) of subsection 1 of this section or who reasonably expects to meet the requirement within sixty days after the examination shall be eligible for examination pursuant to subdivision (5) of subsection 1 of this section if the candidate also meets the requirements of subdivisions (1), (2), and (3) of subsection 1 of this section. In the case of a candidate admitted to examination on the reasonable expectation that the candidate will meet the educational requirements within sixty days, no certificate shall be issued, nor credit for the examination or any part thereof given unless the educational requirement is in fact met within the sixty-day period.]

[326.100. All statements, records, schedules and memoranda, commonly known as working papers, made by a certified public accountant or a public accountant, or by an employee of either, incident to or in the course of professional service to clients, except reports delivered to a client, shall be and remain the property of such certified public accountant or public accountant, in the absence of a written agreement between the accountant and the client to the contrary.]

[326.110. 1. The board shall prescribe rules and regulations consistent with the provisions of sections 326.011 to 326.230; provided, however, nothing herein contained shall be construed as conferring upon the board the authority to issue rules or regulations on any subject affecting the practice of public accountancy by a person previously licensed as a certified public accountant unless specifically authorized by the general assembly. Such rules and regulations may include:

- (1) Rules of procedure for governing the conduct of matters before the board;

(2) Rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy;

(3) Regulations governing educational requirements for issuance of the certificate of "certified public accountant" and prescribing further educational requirements, known as "requirements of continuing education", to be met from time to time by the holders of such certificates and by the holders of public accountant certificates, in order to maintain their professional knowledge and competence, as a condition to continuing in the practice of public accountancy;

(4) Regulations governing corporations practicing public accounting, including but not limited to rules concerning their style, name, title, and affiliation with any other organization; and establishing reasonable standards with respect to professional liability insurance and unimpaired capital, and prescribing joint and several liability for torts relating to professional services for shareholders of any such corporation failing to comply with such standards;

(5) Regulations governing peer review committee accreditation and requirements for registration of an office and issuance of permits;

(6) Regulations prohibiting competitive bidding which is declared to be contrary to the public interest for professional engagement of certified public accountants or public accountants which regulations are not in conflict with other provisions of law.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. In promulgating rules and regulations in respect to the requirements of continuing education as authorized by the provisions of subdivision (3) of subsection 1 of this section, the board:

(1) May, among other things, use and rely upon guidelines and pronouncements of recognized educational and professional associations;

(2) May prescribe for content, duration and organization of courses;

(3) Shall take into account the accessibility to applicants of such continuing education as the board may require, and any impediments to the interstate practice of public accountancy which may result from differences in such requirements in states;

(4) May provide for relaxation or suspension of such requirements for instances of individual hardship;

(5) Shall not, in establishing requirements for continuing education, require in excess of one hundred twenty hours of continuing education in any three-year period, not more than one-third of which shall be required in any one year, and such requirements of continuing education must be susceptible of being fulfilled in programs or courses

reasonably available to certificate holders within the state.

4. The board may by rule require such reports concerning continuing education as it deems necessary from holders of permits granted under the provisions of section 326.210.]

[326.120. Any person who violates any provision of section 326.021 shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person is liable to punishment under this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings.]

[326.121. The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought under section 326.022 or section 326.120 that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device and that such person is holding himself out to be a certified public accountant or a public accountant holding a permit to practice under section 326.210. In any such action evidence of the commission of a single act prohibited by sections 326.011 to 326.230 shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.]

[326.125. At all proceedings for the enforcement of these or any other provisions of this chapter the board shall, as it deems necessary, select, in its discretion, either (1) the attorney general or one of his assistants designated by him or (2) other legal counsel to appear and represent the board at each stage of such proceeding or trial until its conclusion.]

[326.130. 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative

hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.]

[326.131. After notice and hearings as provided in chapter 621, RSMo, the board shall revoke the registration and permit to practice of a partnership or corporation if at any time it does not have all the qualifications prescribed by sections 326.040 and 326.050. After notice and hearings as provided in chapter 621, RSMo, the board may revoke or suspend the registration of a partnership or corporation or may revoke or suspend its permit under section 326.210 to practice or may censure the holder of any such permit for any of the causes enumerated in section 326.130.]

[326.133. Upon application in writing and after hearing pursuant to notice, the board may issue a new certificate to a certified public accountant whose certificate shall have been revoked, or may permit the reregistration of anyone whose registration has been revoked or may reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.]

[326.134. 1. In order to assure a free flow of information for peer review pursuant to section 326.055, or proceedings before the board pursuant to section 326.132, all complaint files, investigation files, and all other investigation reports and other investigative information in the possession of the board or peer review committee or firm, acting under the authority of section 326.055 or 326.132, or its employees or agents, which relate to such hearings or review shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person, other than the permit or certificate holder and the board or peer review committee or firm or their employees and agents involved in such proceedings, or be admissible in evidence in any judicial or administrative proceeding, other than the proceeding for which such material was prepared or assembled. A final written decision and finding of fact of the board, pursuant to section 326.132, shall be a public record.

2. A person shall not be civilly liable as a result of his or her acts, omissions, or decisions in good faith as a member of the board, a peer review committee or firm, or as an employee or agent thereof, in connection with such person's duties.

3. A person shall not be civilly liable as a result of filing a report or complaint with the board or a peer review committee, or for the disclosure to the board or a peer review committee or its agents or employees, whether or not pursuant to a subpoena, of records, documents, testimony or other forms of information which constitute privileged matter in connection with proceedings of a peer review committee, or other board proceedings

pursuant to section 326.132. However, such immunity from civil liability shall not apply if such act is done with malice.]

[326.151. A certified public accountant or a public accountant shall not be examined by judicial process or proceedings without the consent of his client as to any communication made by the client to him in person or through the media of books of account and financial records, or his advice, reports or working papers given or made thereon in the course of professional employment, nor shall a secretary, stenographer, clerk or assistant of a certified public accountant, or a public accountant, be examined, without the consent of the client concerned, concerning any fact the knowledge of which he has acquired in his capacity. This privilege shall exist in all cases except when material to the defense of an action against an accountant.]

[326.160. 1. The "Missouri State Board of Accountancy" shall consist of seven members, one of whom shall be a voting public member, appointed by the governor, by and with the advice and consent of the senate, and shall have the functions, powers and duties prescribed in this chapter.

2. Each member of the board, except the public member, shall be the holder of a certificate as a certified public accountant, issued pursuant to and pursuant to the laws of this state, and shall at the time of his or her appointment be a citizen of the United States and a resident of this state for a period of at least one year, and have practiced continuously as and under the designation of a certified public accountant, or as a public accountant, for a period of at least five years immediately preceding his or her appointment. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. The president of the Missouri Society for Certified Public Accountants in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five certified public accountants qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Society for Certified Public Accountants shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. All members, including public members, shall be chosen from lists submitted by the director of the division of

professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The term of office of each member appointed shall be five years. Vacancies shall be filled by the governor for the unexpired term. Every member shall, however, hold office until his or her successor is appointed and qualified. No member whose term shall have expired, or been terminated for any reason, shall be eligible for reappointment until the lapse of one year. Appointment to fill an unexpired term shall not be considered as a complete term.

4. To every member appointed by the governor there shall be issued a commission or certificate of appointment; and every appointee, before entering upon the member's duties, shall take the oath of office required by the constitution of all officers under the authority of this state.

5. Any member of the board may be removed by the governor for misconduct, incompetency or neglect of duty; provided, the member shall first be given an opportunity to be heard in his or her own behalf.]

[326.170. 1. The Missouri state board of accountancy shall have power to adopt and use a seal; to make and amend all rules deemed necessary for the proper administration of this chapter; conduct examinations; to administer oaths and hear testimony regarding disciplinary actions as provided by section 621.110, RSMo, or preparatory to the filing of a complaint pursuant to section 621.045, RSMo; to require, by summons or subpoena, the attendance and testimony of witnesses, and the production of books, papers and documents with respect to such testimony; and to do and perform all other acts and things herein committed to their charge and administration, or incidental thereto.

2. Said board shall maintain its office in Jefferson City, Missouri. ]

[326.180. 1. The board hereby created shall annually elect one of its members as president, another as vice president, another as secretary, and another as treasurer. It shall make an annual report to the governor. It shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to it, and all affidavits and other verified documents; and shall cause to be kept accurate records and minutes of its proceedings. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal, shall constitute and be received in evidence with like effect as the original. The board may employ legal counsel and such board personnel as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, and incur such travel and other expense, as, in its judgment, shall be necessary for the effectual administration of this law.

2. The board may also appoint a continuing education committee of not less than five members consisting of certified public accountants of this state holding a live permit who need not be members of the board. This committee shall:

(1) Evaluate continuing education programs to determine if they meet continuing education regulations adopted by the board;

(2) Consider applications for exceptions to continuing education regulations adopted pursuant to the provisions of section 326.110; and

(3) Consider such other matters regarding continuing education as may be assigned to it by the board.]

[326.190. 1. The board may by rule prescribe the dates and places for holding regular meetings; as well as regulate the call, notice and holding of special meetings. Three members of the board shall constitute a quorum at any regular meeting; and at any special meeting of which due notice has been given.

2. Examination of applicants shall be held at least once in each year at such times and places as the board shall determine. Notice of the time and place for holding any such examination shall be published at least once, not less than sixty days before the date of examination, in a newspaper published and circulating in St. Louis, a newspaper published and circulating in Kansas City, and in such other newspapers, and in such other manner, as shall, in the opinion of the board, be necessary to notify those desirous of applying for examination. The board may require, by general rule or special order, any or all applicants to appear in person before the board, and to answer questions touching their qualifications; and may, in its discretion, require evidence in support of the statements of the applicant.]

[326.200. 1. Every application for the granting of a certified public accountant certificate, or of a public accountant registration certificate, shall be made on a form furnished to the applicant, contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration, and be accompanied by an examination fee for each subject upon which the person is to be examined. For each subsequent sitting, the applicant shall pay a fee, as determined by the board, for each subject upon which the applicant is to be examined, not to exceed the original examination fee. For the issue of each certified public accountant certificate, the grantee shall pay a certificate fee.

2. An individual permit fee shall be charged for the issuance of each permit to practice public accountancy issued to any holder of a certified public accountant certificate or of a public accountant certificate whether the holder is in practice as an individual, or as a partner or firm member or as an employee of a corporation, firm or partnership, and a corporate permit fee shall be charged for the issuance of each permit to practice accountancy

issued to any registered corporation. All fees payable pursuant to the provisions of this chapter shall be collected by the division of professional registration, who shall transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "State Board of Accountancy Fund".

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

4. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. All claims for compensation and expenses shall be presented and allowed in open meetings of the board. No compensation or expenses of members of the board, its officers or employees shall be charged against the general funds of the state, but shall be paid out of the state board of accountancy fund.

5. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.]

[326.210. 1. Permits to engage in the practice of public accounting in this state shall be issued by the board, upon payment of the fee as prescribed pursuant to section 326.200, to holders of the certificates of certified public accountants issued pursuant to section 326.060, and to holders of public accountant certificates, who shall have furnished evidence satisfactory to the board of compliance with the requirements of subsection 2 of this section, and to firms, partnerships and corporations registered pursuant to section 326.040 or 326.050. All permits shall expire on the permit renewal date and may be renewed for each licensing period upon payment of the renewal fee as prescribed pursuant to section 326.200. A permit holder whose permit has expired and who has not renewed the person's permit within two months of the permit renewal date may renew the person's permit upon payment of the permit fee together with a delinquent fee. No permit shall be renewed more than two years after expiration. Permits to engage in the practice of public accounting shall not be issued to the holder of a certificate issued by this state pursuant to section 326.060 until such person shall have had:

(1) Two years' experience acceptable to the board in the practice of public accounting under the supervision of a certified public accountant holding a certificate and live permit from this or another state, which experience shall include, but not be limited to, two years' experience in the practice of public accounting under the supervision of the state auditor who is a certified public accountant holding a certificate and live permit from this or another state; or

(2) At least two years of satisfactory experience acceptable to the board as a certified public accountant in the legal practice of public accounting in another state while holding a live permit to practice from the other state; or

(3) Four years' experience acceptable to the board in the practice of governmental accounting, budgeting or auditing, including auditing of tax returns, as an employee of the state of Missouri, a political subdivision of this state, or the United States government, under the supervision of a certified public accountant acceptable to the board holding a certificate and live permit from this or another state, who is the head of the department, division or unit in which such person is employed. Only one year of public accounting experience shall be required of an internal revenue agent who has been issued a certificate by this state pursuant to section 326.060 and who has had at least four years' experience as an employee of the federal government as an internal revenue agent in the Internal Revenue Service, of which at least two years is certified by a district director of Internal Revenue Service as having been of field agent experience at the journeyman level, grade GS-512-11 or above, as specified in the United States Civil Service Commission's qualification standard as of December 1, 1975; or

(4) Four years' experience acceptable to the board in the practice of accounting for a corporation, partnership or other business entity, other than a governmental entity described in subdivision (3) of this subsection, under the supervision of a certified public accountant, acceptable to the board, holding a certificate and live permit from this or another state and who is head of the department, division or unit in which such person is employed; or

(5) Experience substantially equivalent to the experience requirement of this state as the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country.

2. After the expiration of the three-year period immediately following the effective date of board regulations establishing requirements of continuing education, every application for renewal of an annual permit to practice by any person who has held a certificate as a certified public accountant for three years or more shall be accompanied or supported by such evidence, as the board shall prescribe, of satisfaction of such requirements during the last three years preceding the application. Failure by an applicant

for renewal of an annual permit to furnish such evidence shall constitute grounds for revocation, suspension or refusal to renew such permit in a proceeding pursuant to section 326.130, unless the board, in its discretion, shall determine such failure to have been due to reasonable cause or excusable neglect. The board, in its discretion, may renew an annual permit to practice despite failure to furnish evidence of satisfaction of requirements of continuing education upon condition that the applicant follow a particular program or schedule of continuing education.

3. The attestation or opinion concerning the presentation of financial or other quantitative data shall be restricted to those holding a live permit pursuant to this section.

4. Refusal by the resident manager of an office, registered pursuant to section 326.055, to submit such office to peer review, if required by the board, shall constitute grounds for revocation, suspension or refusal to renew the manager's permit in a proceeding pursuant to section 326.130.]

[326.230. If any provision of sections 326.011 to 326.230 or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provision to others or other circumstances shall not be affected thereby.]

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